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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

9 | MONTRAIL D. SMITH,

10 || Petitioner,

2:15-cv-00487-KJD-VCF

11 || VS.

ORDER

12 || TIMOTHY FILSON, *et al.*,

13 || Respondents.

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In this habeas corpus action, the petitioner, Montrail D. Smith, filed a first amended habeas petition on April 11, 2016 (ECF No. 24), and the respondents filed a motion to dismiss (ECF No. 35) on August 10, 2016. Smith's response to the motion to dismiss was then due on September 12, 2016. *See* Order entered June 15, 2016 (ECF No. 32) (30 days for response); *see also* Fed. R. Civ. P. 6(d) (adding three days to the time for response to a motion when the motion is served by electronic means).

22 On September 9, 2016, Smith filed a motion for extension of time (ECF No. 36), requesting
23 an extension of time to October 10, 2016, which is a holiday (Columbus Day), so the requested
24 extension would actually be to October 11, 2016, a 29-day extension of time. *See* Fed. R. Civ. P.
25 6(a)(1)(C) (deadline falling on legal holiday).

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1 Smith's counsel states that the extension of time is necessary because of her obligations in
2 other cases. The court finds that Smith's motion for an extension of time is made in good faith and
3 not solely for the purpose of delay, and there is good cause for the requested extension of time. The
4 court will grant the extension of time as requested.

In his motion for extension of time, Smith indicates that Timothy Filson is now the warden of Ely State Prison, the prison where Smith is incarcerated. Pursuant to Federal Rule of Civil Procedure 25(d), Timothy Filson is substituted for Renee Baker as the respondent warden.

8 **IT IS THEREFORE ORDERED** that petitioner's motion for extension of time (ECF
9 No. 36) is **GRANTED**. Petitioner shall have until and including **October 11, 2016**, to file a
10 response to the motion to dismiss.

11 **IT IS FURTHER ORDERED** that, in all other respects, the schedule for further
12 proceedings set forth in the orders entered July 1, 2015 (ECF No. 13) and June 15, 2016 (ECF No.
13 32) shall remain in effect.

14 **IT IS FURTHER ORDERED** that the Clerk of the Court shall substitute Timothy Filson for
15 Renee Baker, on the docket for this case, as the respondent warden, and shall update the caption of
16 the action to reflect this change.

17 DATED: September 13, 2016



UNITED STATES DISTRICT JUDGE